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UNCLAS SECTION 01 OF 03 BRASILIA 002004

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E.O. 12958: N/A

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SUBJECT: ONE LESS ROGUE IN THE GALLERY: POLITICIAN CHARGED WITH MURDER IS EXPELLED FROM BRASILIA'S LEGISLATURE

1. (SBU) SUMMARY. Carlos Xavier on August 10 became the first legislator ever expelled from the District Assembly (equivalent to a state senate) of the Federal District of Brasilia. No mean feat, given the Assembly's notoriety as a haven for scoundrels. Xavier, who emerged from humble origins, is the subject of an ongoing investigation into a web of land frauds. But the crime that led to his expulsion was his alleged involvement in the murder of a 16-year old boy who had been having an affair with Xavier's wife. While the evidence against Xavier was overwhelming and his defense implausible, his Assembly colleagues expelled him by the bare-minimum vote margin. Some of the other Deputies were probably concerned about setting a precedent by expelling an accused criminal, as the 24-member Assembly --never known for its high-quality work-- still houses a half dozen Deputies suspected of various crimes. Thus, the entire affair leaves in doubt whether this is a blow against impunity, a small step in the right direction, or merely serves to draw a line: that murderers, at least, will not be tolerated in the District Assembly. END SUMMARY.

BOOTBLACKS AND BOOTSTRAPS

2. (SBU) One of eleven children of an itinerant bricklayer, Carlos Xavier put himself through school shining shoes and selling candy on street corners. Finding work as a bureaucrat in the Brasilia government, he got involved in local politics and in 1994 was elected to the first of three terms in the District Assembly. A member of the PMDB party and allied to PMDB Governor Joaquim Roriz, Xavier beat charges in 1998 that he bribed two teenaged girls not to testify against his brother in a rape case. Since 2001, he has been under investigation on charges that he and his cronies benefited from his actions to fraudulently rezone empty public lots as business sites. Some of the properties' values increased fifty times.

3. (SBU) In 2002, Carlos Xavier ran for his third term in the Brasilia District Assembly. During the race, campaign volunteer Ewerton da Rocha began a sexual affair with Xavier's wife. In March 2004, Ewerton, 16, was found shot to death in a field --allegedly killed by two youths sent by Xavier. Xavier had visited Ewerton's house just before the killing and threatened his parents. The police and the District Assembly's Ethics Committee began looking into his involvement in the murder, and on June 22, a Brasilia court indicted him for aggravated homicide. A week later, the Ethics Committee passed a motion for Xavier's expulsion.

CARLOS XAVIER NARROWLY EXPELLED FROM ASSEMBLY

4. (SBU) Given a chance to present a defense, Xavier's weepy ramblings convinced nobody, and on August 5, the full 24-member Assembly cast the bare minimum 13 votes to expel him. No appeal is possible. Thus Xavier became the first District Deputy to be expelled from the Assembly in its thirteen-year history. Afterward, some of his PMDB colleagues tried vainly to annul the vote, but the expulsion became official on August 10. In addition to losing his Assembly seat, Xavier loses his "political rights" and cannot run in any election until 2014. He will be tried for murder in a common court along with his co-defendants.

"CRICKETING" - BRASILIA'S OLDEST PROFESSION

5. (SBU) "Cricketing" ("grilagem") is a term that covers a range of land crimes from fraudulent zoning to outright land theft. It came by its name because early perpetrators would put forged deeds into a box with live crickets, whose effluence would yellow the documents and lend them authenticity. Cricketing is particularly common in Brasilia because the city has sprung up in forty years on near-empty land in Brazil's interior. Brasilia's real estate and development agencies, Terracap and Novacap, administer 340,000 hectares of public land, privatizing and zoning it as necessary. For decades clever bureaucrats, politicians, and builders have found ingenious ways to manipulate the titling and zoning processes for immense personal gain. With their enormous profits and low risk, land frauds are at the heart of most of Brasilia's scandals and are the basis for the personal fortunes of many local politicians.

ASSEMBLY NO STRANGER TO CRIMINAL ALLEGATIONS

16. (SBU) Thus the Xavier affair no doubt causes some jitters among those who would rather not set a precedent of expelling accused criminals. Or as one of Xavier's allies told the press, "If you open the gate, the whole herd might get out." Among the suspects:

- Benicio Tavares (PMDB), the Assembly Speaker, who uses a wheelchair, has built a career as a defender of handicapped rights. Last year he was convicted of embezzling funds from the Handicapped Association of Brasilia, of which he was President.

- Wigberto Tartuce (PP). The "Big Vig" resigned as Brasilia's Labor Secretary in 1999 under fire for embezzling millions from unemployment programs and laundering it through offshore accounts linked to the "Banestado" scandal. His tenure at the Secretariat has so far resulted in 42 investigations, and Tartuce has been ordered to repay over US\$ 1.5 million. In June, a judge ordered him to pay back a US\$ 370,000 gambling debt he ran up in four days in a Bahamian casino.

- Jose Edmar (PMDB), jailed for a month in 2003 during a land fraud investigation called "Operation Cricket". Edmar, who now fortuitously chairs the Assembly's Land Affairs Committee, has threatened to kill Tartuce, whose backroom maneuvers he blames for landing him in jail.

- Pedro Passos (PMDB), chairs the Justice Committee. A crony of Governor Roriz, together and separately they have been subjects of many land fraud allegations. In 1995, an Assembly investigation called him Brasilia's "greatest land predator". In 2002, he was convicted of land fraud in a case that is now on appeal. A 2003 case for stealing land in public parks has yet to come to trial.

- Junior Brunelli (PP), started his cricketing career as an evangelical church leader selling plots of land in heaven. In April, he was in line to fill the urgent vacancy as Chair of the Ethics Committee, which was then in the middle of the Xavier case, until it emerged that he was under investigation on suspicion that, during the 2002 campaign, he set up an amateurish gang that intimidated opponents and murdered a man. In early 2004, Brunelli was allegedly behind the murders of two of the gang members to silence them. The police investigation continues, but the District Assembly thought it prudent not to make Brunelli the Ethics Committee Chairman.

- Odilon Aires and Gim Argello (PMDB). Odilon was caught on tape in 2002 complaining that his bribe for processing a huge block of fraudulent land titles was only 50 lots, whereas Gim Argello (now the Vice-Speaker) received 200. The Assembly's Ethics Committee buried the case.

- Luiz Estevao (PMDB), no longer in the Assembly because he was elected to the federal Senate in 2000, and then expelled the next year when his construction firm was caught engaging in massive overcharging and contract fixing on the 1999 construction of a Sao Paulo courthouse.

- Jose Tatiko (PTB), elected Federal Deputy after serving three terms in the District Assembly. Caught using Assembly funds to pay employees at a supermarket he owns, he was given an ethics warning.

17. (SBU) No Brasilia politician has ever been seriously punished for corruption and many are reelected even after their misdeeds become public. Some, like Estevao, Tatiko, and Jose Roberto Arruda (a Federal Deputy who in 2002 won the most votes in Brasilia's history a year after he resigned from the Senate in a scandal), even make it to the federal Congress. Ruminating on Carlos Xavier's expulsion, Federal Deputy Maninha (PT-Brasilia) doubts that there will be a domino effect of other expulsions because the Deputies have the goods on each other. "There won't be a second Carlos Xavier in the short-term", she says, "these Deputies are living archives, and now they'll be shut tight. Morality will only come with popular pressure."

COMMENT - DISTRICT ASSEMBLY CAN'T GET ANY WORSE

18. (SBU) Brasilia's District Assembly has never been known for the high quality of its work. In the first three months of 2004 alone, Governor Roriz vetoed 40 of the Assembly's bills because they were unconstitutional on their face. After long debate, the Assembly in February passed one bill to create a fishing pond for the unemployed to catch their dinners and another that would build public bathrooms exclusively for gays (both were vetoed). The Assembly spent months choosing a wolf as Brasilia's official animal after the first choice, a type of fish, was black-listed when it was discovered to be a hermaphroditic species. Workers' Party (PT) freshman Deputy Erika Kokay has lost her taste for the legislature, saying she will not run for reelection in

2006, "I have no intention of staying here. This place is a non-entity."

19. (SBU) Given the gravity of the charges against him, it is encouraging that Carlos Xavier was expelled. But it seems unlikely that the case is the tip of the iceberg in terms of cleaning up the District Assembly. His colleagues voted him out by the narrowest majority and Brasilia's voters have remarkably short memories where corruption is concerned. It is not at all clear whether the Xavier affair is a resounding blow against impunity for Brazilian politicians, a small step in the right direction, or merely serves to draw a tremulous red line: that murderers, at least, will not be tolerated in Brasilia's legislature.
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